

## EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

DIANA CENCETTI, INDIVIDUALLY, &	§	
AS PERSONAL REPRESENTATIVE OF	§	CIVIL ACTION NO. 5:20-cv-1395
THE ESTATE OF DAVID	§	
MALDONADO, DECEASED,	§	JUDGE
	§	
<i>Plaintiffs,</i>	§	
	§	
v.	§	
	§	
AGCO CORPORATION,	§	
	§	
<i>Defendant.</i>	§	

### **INDEX OF DOCUMENTS**

EXHIBIT A: Index of Documents

EXHIBIT B: Plaintiff's Original Petition

EXHIBIT C: Request for Process;

EXHIBIT D: Citation Issued to AGCO Corporation In State Cause No. C20202-1892A, with  
Affidavit of Service.

EXHIBIT E: List of Counsel of Record

**EXHIBIT B**CAUSE NO. C2020-1892A

FILED  
C2020-1892A  
11/9/2020 5:54 PM  
Heather N. Kellar  
Comal County  
District Clerk  
Accepted By:  
Neelima Akula

<b>DIANA CENCETTI, INDIVIDUALLY, &amp; AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED, <i>Plaintiff</i></b>	§	<b>IN THE DISTRICT COURT</b>
	§	
	§	
	§	
	§	
<b>Vs.</b>	§	<b>____ JUDICIAL DISTRICT</b>
	§	
	§	
	§	
	§	
<b>AGCO CORPORATION, <i>Defendant</i></b>	§	<b>COMAL COUNTY, TEXAS</b>

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**PLAINTIFFS' ORIGINAL PETITION AND REQUEST FOR DISCLOSURE**

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TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, **DIANA CENCETTI, INDIVIDUALLY, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED**, hereinafter referred to by name or as "Plaintiff" and complains of **AGCO CORPORATION**, hereinafter referred to by name or as "Defendant(s)", and for cause of action would respectfully show unto the Court as follows:

**I.  
DISCOVERY CONTROL PLAN**

1. Plaintiff intends that discovery be conducted under Level 3 of Rule 190 Texas Rules of Civil Procedure.

**II.  
PARTIES**

2. Plaintiff Diana Cencetti, is an individual residing in Comal County, Texas.

3. Defendant AGCO Corporation is a foreign corporation doing business in the State of Texas and can be properly served through its registered agent of service: Corporation Service Company d/b/a CSC-Lawyers Incorporating Service Company 211 E. 7th Street, Suite 620, Austin, TX 78701-3136.

4. Pursuant to Texas Rule of Civil Procedure 28, if any Defendant to this suit has been incorrectly named it is instructed to answer suit in its proper name.

### **III.** **JURISDICTION AND VENUE**

5. Venue in Comal County, Texas is proper under Section 15.002(a)(4) of the Texas Civil Practice and Remedies Code because subsections (1), (2), and (3) do not apply and it is the county in which the Plaintiff resided at the time of the accrual of the cause of action.

6. The subject matter in controversy is within the jurisdictional limits of this court.

7. The damages sought are within the jurisdictional limits of the court.

8. Plaintiffs assert that the amount of any monetary damages awarded to Plaintiffs should be decided by a jury of Plaintiffs' peers. However, Texas Rule of Civil Procedure 47 requires Plaintiffs to affirmatively plead the amount of damages sought. In compliance with the rule, Plaintiffs plead for monetary relief over \$1,000,000.00.

### **IV.** **FACTS**

10. On June 29, 2020, at approximately 11:39 p.m., Decedent David Maldonado was operating a compact vehicle when an 18wheeler owned by Defendant and operated by an employee of Defendant, and/or one of its subsidiaries unknown to Plaintiff, unlawfully and negligently collided into Decedent David Maldonado's compact vehicle on Federal highway 101 Tula-Ciudad Victoria in the state of Tamaulipas, Mexico. The collision was violent and unexpected, and Decedent David Maldonado died as a result of the collision.

V.  
**CAUSES OF ACTION**

12. The collision made the basis of this suit and the resulting injuries and damages to **DIANA CENCETTI, DAUGHTER OF INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED**, were proximately and directly caused by the negligent conduct of Defendant.

**A. DEFENDANT ARGO CORPORATION**

13. Defendant **ARGO CORPORATION** had a duty to exercise the degree of care that a reasonably careful person would use to avoid harm to others under circumstances similar to those described herein.

14. Plaintiff's injuries were proximately caused by Defendant **ARGO CORPORATION's** negligent, careless and reckless disregard of said duty.

15. Each of these acts and/or omissions, whether taken singularly or in any combination constitute negligence, negligence per se and gross negligence which proximately caused the collision and injuries and other losses as specifically set forth herein, all of which Plaintiff suffered and which Plaintiff will continue to suffer in the future, if not for the remainder of her natural life.

16. As described herein, Defendant **ARGO CORPORATION** was negligent on the occasion in question and such negligence was the proximate cause of Plaintiffs' injuries and damages.

17. Each of these acts and/or omissions, whether taken singularly or in any combination constitute negligence, negligence per se, gross negligence and malice which proximately caused the collision and injuries and other losses as specifically set forth herein, all of which Plaintiff suffered and which she will continue to suffer in the future, if not for the remainder of her natural life.

18. Defendant's negligent conduct was more than momentary thoughtlessness or

inadvertence. Rather, Defendant's conduct involved an extreme degree of risk, considering the probability and magnitude of the potential harm to drivers that share the road, such as Plaintiff **DIANA CENCETTI, DAUGHTER OF INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED**, Defendant had actual, subjective awareness of the risk involved, but nevertheless continued with conscious indifference to the rights, safety, or welfare of Plaintiffs **DIANA CENCETTI, DAUGHTER OF INDIVIDUALLY AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED** or others similarly situated.

**VI.**  
**EXEMPLARY DAMAGES**

19. The above-referenced acts and/or omissions by Defendant constitute malice as that term is defined in Section 41.001(7) of the Texas Civil Practice and Remedies Code and gross negligence as the term is defined by Section 41.001(11).

20. Defendant's act or omissions described above, when viewed objectively from the standpoint of Defendant at the time of the act or omission, involved an extreme degree of risk, considering the probability of harm to Plaintiff and others.

21. Defendant had actual, subjective awareness of the risk involved in the above described acts and omissions, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare of Plaintiff and others.

22. The above acts and/or omissions were singularly and cumulatively the proximate cause of the occurrence in questions and the resulting injuries and damage sustained by Plaintiffs.

23. Therefore, because of such acts of malice and gross negligence on behalf of Defendant. Plaintiff sues for exemplary damages in an amount to be determined at trial.

**VII.**  
**CAUSATION AND DAMAGES**

24. Each of the acts and omissions described above, taken singularly or in any combination, constitutes negligence and gross negligence which proximately caused the collision, injuries and damages as specifically set forth herein, all of which **DIANA CENCETTI, INDIVIDUALLY, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED** suffered.

25. As a direct and proximate result of the collision and the negligent conduct of Defendant, David Maldonado, Deceased, died as a result of the injuries he sustained.

26. Additionally, as a direct and proximate result of the occurrence made the basis of this lawsuit, Plaintiffs **DIANA CENCETTI, INDIVIDUALLY, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED**, incurred the following damages:

a. Pecuniary Loss sustained in the past: loss of the care, maintenance, support, services, advice, counsel and reasonable contributions of a pecuniary value, that **DIANA CENCETTI** in reasonable probability would have received from **DAVID MALDONADO** had he lived;

b. Pecuniary Loss that, in reasonably probability will be sustained in the future;

c. Loss of companionship and society sustained in the past: loss of the positive benefits flowing from the love, comfort, companionship, and society that **DIANA CENCETTI**, in reasonable probability would have received from **DAVID MALDONADO** had he lived;

d. Loss of companionship and society that in reasonable probability will be sustained in the future;

e. Mental anguish sustained in the past: emotional pain, torment, and suffering experienced by **DIANA CENCEITTI** because of the death of **DAVID MALDONADO**; and

f. Mental anguish that, in reasonable probability, will be sustained in the future.

27. For each of the foregoing, Plaintiff seek damages in an amount within the Court's jurisdictional limits.

### **DAMAGES: DECEDENT'S ESTATE**

Pursuant to Texas Civil Practice & Remedies Code §71.021

28. As a direct and proximate result of the incident, **DAVID MALDONADO** lost his life. As representative of the decedent's estate, Plaintiff **DIANA CENCETTI**, seeks the following damages:

a. Pain and mental anguish: the conscious physical pain and emotional pain, torment, and suffering experienced by **DAVID MALDONADO** before his death as a result of the occurrence in question;

b. Medical Expenses: Reasonable expense of the necessary medical and hospital care received by **DAVID MALDONADO** for treatment of injuries sustained by him as a result of the occurrence in question;

and

c. Funeral and burial expenses.

30. For each of the foregoing, Plaintiffs seek damages in an amount within the Court's jurisdictional limits.

### **VIII.**

### **PREJUDGMENT AND POST-JUDGMENT INTEREST**

31. Plaintiffs seek prejudgment and post-judgment interest as allowed by law.

### **IX.**

### **TEXAS RULE OF CIVIL PROCEDURE 193.7**

32. Pursuant to Texas Rule of Civil Procedure 193.7, Plaintiffs **DIANA CENCETTI, INDIVIDUALLY, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF**

**DAVID MALDONADO, DECEASED**, hereby gives notice to Defendant that any and all documents produced by Defendant may be used against Defendant producing the documents at any pre-trial proceeding and/or at the trial of this matter without the necessity of authenticating the documents.

**X.**  
**JURY DEMAND**

39. In accordance with Texas Rule of Civil Procedure 216, Plaintiffs **DIANA CENCETTI, INDIVIDUALLY, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED**, hereby request a trial by jury and have already paid the required jury fee.

**XI.**  
**RULE 194 REQUEST FOR DISCLOSURE**

40. Pursuant to Rule 194 TEX. R. CIV. P., Defendants are requested to disclose the information and material described in Rules 194.2(a) -(l) TEX. R. CIV. P. within fifty (50) days after service of the citation and petition

**XII.**  
**PRAYER**

41. Plaintiffs **DIANA CENCETTI, INDIVIDUALLY, AND AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED**, respectfully prays the Defendant be cited to appear and answer herein, and that upon a final hearing of the cause, judgment be entered for the Plaintiffs against Defendant for actual damages as alleged and exemplary damages, in an amount within the jurisdictional limits of this Court, together with pre-judgment interest (from the date of injury through the date of judgment) at the maximum rate allowed by law, post-judgment interest at the legal rate, costs of court, and such other and further relief to which the Plaintiffs may be entitled at law or in equity.

Respectfully submitted,

**LAW OFFICES OF THOMAS J. HENRY**

P.O. Box 150

Corpus Christi, Texas 78403

Telephone: 361-985-0600

Facsimile: 361-985-0601

BY: /S/ PETER M. ZAVALETTA

Peter M. Zavaletta

State Bar No. 22251600

\*email: [pzavaletta-svc@thomasjhenrylaw.com](mailto:pzavaletta-svc@thomasjhenrylaw.com)

\* **Service by email to this address only**

**ATTORNEYS FOR PLAINTIFFS**

FILED  
C2020-1892A  
11/9/2020 5:54 PM  
Heather N. Kellar  
Comal County  
District Clerk  
Accepted By:  
Neelima Akula

**EXHIBIT C**

C2020-1892A

CAUSE NUMBER: \_\_\_\_\_  
DISTRICT COURT: \_\_\_\_\_

DATE: 11/09/2020

**HEATHER N. KELLAR  
COMAL COUNTY DISTRICT CLERK  
REQUEST FOR PROCESS**

Request the following process: (Please check all that Apply)

☒ Citation \_\_\_\_\_ Notice \_\_\_\_\_ Temporary Restraining Order \_\_\_\_\_ Notice of Temporary Protective Order \_\_\_\_\_  
 \_\_\_\_\_ Temporary Protective Order \_\_\_\_\_ Precept with Hearing \_\_\_\_\_ Precept without Hearing \_\_\_\_\_  
 \_\_\_\_\_ Writ of Attachment \_\_\_\_\_ Writ of Garnishment \_\_\_\_\_ Writ of Sequestration \_\_\_\_\_ Capias/Warrant \_\_\_\_\_  
 \_\_\_\_\_ Other \_\_\_\_\_  
 COURT APPOINTED \_\_\_\_\_ RETAINED \_\_\_\_\_ PAUPER'S AFFIDAVIT \_\_\_\_\_

1. Name AGCO CorporationRegistered Agent/By serving: Corporation Service Company d/b/a CSC-Lawyers Incorporating Service CompanyAddress: 211 E. 7th Street, Suite 620, Austin, TX 78701-3136

Service Type: (check one) \_\_\_\_\_ PRIVATE PROCESS \_\_\_\_\_ SHERIFF \_\_\_\_\_ CERTIFIED MAIL \_\_\_\_\_ ATTORNEY  
 PICK-UP \_\_\_\_\_ OUT OF COUNTY \_\_\_\_\_ SECRETARY OF STATE \_\_\_\_\_ PUBLICATION  
 \_\_\_\_\_ POSTING/COURTHOUSE DOOR ☒ MAIL BACK TO REQUESTER

2. Name \_\_\_\_\_

Registered Agent/By serving: \_\_\_\_\_

Address: \_\_\_\_\_

Service Type: (check one) \_\_\_\_\_ PRIVATE PROCESS \_\_\_\_\_ SHERIFF \_\_\_\_\_ CERTIFIED MAIL \_\_\_\_\_ ATTORNEY  
 PICK-UP \_\_\_\_\_ OUT OF COUNTY \_\_\_\_\_ SECRETARY OF STATE \_\_\_\_\_ PUBLICATION  
 \_\_\_\_\_ POSTING/COURTHOUSE DOOR \_\_\_\_\_ MAIL BACK TO REQUESTER

3. Name \_\_\_\_\_

Registered Agent/By serving: \_\_\_\_\_

Address: \_\_\_\_\_

Service Type: (check one) \_\_\_\_\_ PRIVATE PROCESS \_\_\_\_\_ SHERIFF \_\_\_\_\_ CERTIFIED MAIL \_\_\_\_\_ ATTORNEY  
 PICK-UP \_\_\_\_\_ OUT OF COUNTY \_\_\_\_\_ SECRETARY OF STATE \_\_\_\_\_ PUBLICATION  
 \_\_\_\_\_ POSTING/COURTHOUSE DOOR \_\_\_\_\_ MAIL BACK TO REQUESTER

4. Name \_\_\_\_\_

Registered Agent/By serving: \_\_\_\_\_

Address: \_\_\_\_\_

Service Type: (check one) \_\_\_\_\_ PRIVATE PROCESS \_\_\_\_\_ SHERIFF \_\_\_\_\_ CERTIFIED MAIL \_\_\_\_\_ ATTORNEY  
 PICK-UP \_\_\_\_\_ OUT OF COUNTY \_\_\_\_\_ SECRETARY OF STATE \_\_\_\_\_ PUBLICATION  
 \_\_\_\_\_ POSTING/COURTHOUSE DOOR \_\_\_\_\_ MAIL BACK TO REQUESTER

TITLE OF DOCUMENT/PLEADING TO BE ATTACHED TO PROCESS: \_\_\_\_\_

Plaintiff's Original Petition and Request for Disclosure

ATTORNEY (OR ATTORNEY'S AGENT)/PRO SE REQUESTING SERVICE:

NAME: Peter M. Zavaletta PHONE: (361) 985-0600ADDRESS: Thomas J. Henry Law, PLLCP.O. Box 150, Corpus Christi, TX 78403

ATTORNEY FOR:

PLAINTIFF/PETITIONER ☒ DEFENDANT/RESPONDENT \_\_\_\_\_ OTHER \_\_\_\_\_



CIVIL CITATION  
THE STATE OF TEXAS  
C2020-1892A  
22nd District Court

FILED  
C2020-1892A  
11/19/2020 2:06 PM  
Heather N. Kellar  
Comal County  
District Clerk  
Accepted By:  
Marycruz Meza

AGCO Corporation  
Corporation Service Company d/b/a/ CSC-Lawyers Incorporation Service Company  
211 E. 7<sup>th</sup> Street, Suite 620  
Austin, TX 78701-3136

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next after the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you. Said ORIGINAL Petition was filed in said Court on the 9th day of November, 2020 in this cause, C2020-1892A on the docket of said court, and styled,

DIANA CENCETTI; THE ESTATE OF DAVID MALDONADO, DECEASED  
VS.  
AGCO CORPORATION

ATTORNEY FOR PETITIONER: PETER M. ZAVALETTA  
THOMAS J. HENRY LAW PLLC P.O. BOX 150  
CORPUS CHRISTI, TX 78403

The nature of Plaintiff's demand is fully shown by a true and correct copy of ORIGINAL Petition, accompanying this citation, and made a part hereof.

The officer executing this writ shall forthwith serve the same according to requirements of law, and the mandates hereof, and make due return as the law directs.

Issued and given under my hand and the seal of said court at New Braunfels, Texas, this 12th day of November, 2020 A.D.



HEATHER N. KELLAR  
District Clerk, Comal County, Texas  
199 MAIN PLAZA, SUITE 2063  
New Braunfels, TX 78130

By  Deputy  
Linda Ruiz

**RETURN OF SERVICE**  
**CAUSE NO: C2020-1892A**

DIANA CENCETTI, INDIVIDUALLY, & AS PERSONAL REPRESENTATIVE OF THE ESTATE OF DAVID MALDONADO, DECEASED,  
 VS.  
 AGCO CORPORATION,

Executed when copy is delivered:

This is a true copy of the original citation, was delivered to defendant \_\_\_\_\_, on the \_\_\_\_ day  
 of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_, Officer

\_\_\_\_\_, County, Texas

By: \_\_\_\_\_ Deputy

**OFFICER'S RETURN**

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M., and executed in \_\_\_\_\_ County,  
 Texas, by delivering to each of the within named defendants, in person, a true copy of this Citation, with the date of delivery  
 endorsed thereon, together with the accompanying copy of the plaintiff's petition, at the following times and places, to-wit:

NAME	DATE	TIME	PLACE, COURSE & DISTANCE FROM COURTHOUSE

And not executed as to the defendant, \_\_\_\_\_

the diligence used in finding said defendant, being: \_\_\_\_\_

and the cause or failure to execute this process is: \_\_\_\_\_

and the information received as to the whereabouts of said defendant(s) being: \_\_\_\_\_

FEES-Serving Petition and Copy \$65.00

\_\_\_\_\_, Officer

\_\_\_\_\_, County, Texas

By: \_\_\_\_\_ Deputy

\_\_\_\_\_, Affiant

**COMPLETE IF YOU ARE A PERSON OTHER THAN A SHERIFF, CONSTABLE, OR CLERK OF THE COURT,**

In accordance with Rule 107: The officer or authorized person who serves, or attempts to serve, a citation shall  
 sign the return. The signature is not required to be verified. If the return is signed by a person other than a sheriff, constable or the  
 clerk of the court, the return shall be signed under penalty of perjury and contain the following statement:

" My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is

(First, Middle, Last)

\_\_\_\_\_  
 (Street, City, Zip)

I DECLARE UNDER PENALTY OF PERJURY THAT THE FORGOING IS TRUE AND CORRECT.

Executed in \_\_\_\_\_ County, State of \_\_\_\_\_, on the \_\_\_\_\_ day of \_\_\_\_\_.

Declarant/Authorized Process Server

(ID # & expiration of certification)

SUBSCRIBED AND SWORN TO BEFORE ME by the said \_\_\_\_\_ this the \_\_\_\_\_ day of \_\_\_\_\_

20\_\_\_\_ to certify which witness my hand and seal of office.

\_\_\_\_\_  
 Notary Public, State of Texas

Notary's Name Printed:

My commission expires \_\_\_\_\_

## AFFIDAVIT OF SERVICE

State of Texas

County of Galveston

22nd Judicial District Court

Case Number: C2020-1892A

Plaintiff:

**Diana Cencetti, Individually, & As Personal Representative of the Estate of David Maldonado, deceased**

vs.

Defendant:

**Agco Corporation**

For:

Law Offices of Thomas J. Henry  
521 Starr Street  
Corpus Christi, TX 78401

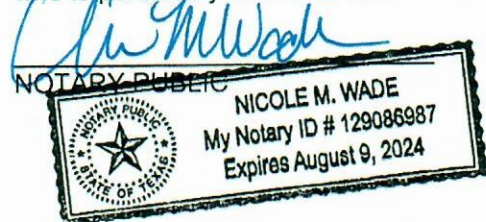
Received by Texas Priority Process Service, Inc. on the 16th day of November, 2020 at 10:51 am to be served on **Agco Corporation by serving its registered agent, Corporation Service Company d/b/a CSC-Lawyers Incorporation Service Company, 211 E. 7th Street, Suite 620, Austin, Travis County, TX 78701.**

I, Dane R. Cuppett, being duly sworn, depose and say that on the **16th day of November, 2020 at 3:17 pm, I:**

delivered to the **REGISTERED AGENT** by delivering a true copy of the **Citation and Plaintiffs' Original Petition and Request for Disclosure** with the date of delivery endorsed thereon by me, to **Samantha Guerra, Corporation Service Company d/b/a CSC-Lawyers Incorporation Service Company** as the designated agent to accept service of process at the address of **211 E. 7th Street, Suite 620, Austin, Travis County, TX 78701** on behalf of **Agco Corporation** and informed said person of the contents therein.

I certify that I am over the age of 18, have no interest in the above action, and am a certified process server, in good standing, in the judicial circuit in which the foregoing occurred. The facts in this affidavit are within my personal knowledge and true and correct.

Subscribed and sworn to before me on the 16th  
day of November, 2020 by the affiant  
who is personally known to me.



Dane R. Cuppett  
PSC-7114, Exp. 10/31/21

11/16/2020  
Date

Texas Priority Process Service, Inc.  
P.O. Box 852188  
Mesquite, TX 75185  
(214) 742-3100

Our Job Serial Number: ATX-2020011720

**EXHIBIT D**

## EXHIBIT E

### **LIST OF ALL COUNSEL OF RECORD**

#### **Attorneys for Diana Cencetti, Individually, & As Personal Representative Of The Estate Of David Maldonado, Deceased**

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State Bar No. 22251600

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*Attorneys For Defendant AGCO Corporation*